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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/611,794	06/30/2003	Jesse Pierce	JP 1	1299

7590 10/18/2004
JESSE PIERCE
7979 Lone Jogger Drive
LAS VEGAS, NV 89113

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,794

Applicant(s)

PIERCE, JESSE

Examiner

Benjamin H. Layno

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments filed 07/23/04 have been fully considered but they are not persuasive. The Examiner maintains the 103 rejection in the first Office action.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-3 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocker et al. in view of Mayerhoff. The Applicant is referred to the first Office action.

The Applicant argues that Baerlocher's ('863) rotator display backboard 34 and pointer 36 is a bonus award display. The Applicant recites "the claimed apparatus has no bonus game as described in '863.....The Applicant's rotator operates just as a regular one game slot machine giving a payout if the rotator indicates that the player is so entitled". The Examiner agrees that '863 rotator display backboard 34 and pointer 36 is a bonus award display. However, the Examiner takes the position that **the Applicant's rotator also operates as a bonus game**. Figs. 1 and 7 of the present invention disclose indicia 22, e.g. "1X", "2X", "3X", etc. that seem to indicate multiplying factors for doubling, tripling, etc. the payouts, thus providing a bonus. If the Applicant's rotator operates just like one of the reels 11, the rotator display backboard 16 would have slot machine symbols e.g. "BAR", "BAR BAR", etc.

The Applicant has also argued that the “Applicant has no main payout display and Applicant’s controller has no preselected displays for a bonus award as there is on one award of payout in the present claimed game”. The Examiner takes the position that Applicant has a main payout display (reels 11, symbols 24), and a preselected display for bonus award (rotator display backboard 16, indicia 22).

The Applicant has also attacked Mayeroff ('483) reference individually by reciting that '483 “discloses merely a bonus game requiring preselection of entrance to the bonus game. In the Applicant’s claimed game there is only one game displayed in two different places and no qualification of the main game is required to play the separate rotator. It spins after the reels spin every time”. The Examiner takes the position that Mayeroff ('483) was cited as a secondary reference teaching a slot machine cabinet having a top box and a belly box. The top box having **a front glass** covering the backboard, and **a door** on the cabinet. In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Note, every time Baerlocker et al. ('863) slot machine is activated, the reels and rotator pointer 36 **automatically both spin**, col. 3, lines 57-59 and col. 4, lines 1-15. Thus, only **one** game is played when Baerlocker et al. ('863) slot machine is activated. A player does not have to wait on whether the reels have a winning combination in

Art Unit: 3712

order to spin the rotator pointer. There is no separate button or lever that must be pressed in order to spin the rotator pointer.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocker et al. in view of Mayeroff as applied to claim 1 above, and further in view of Inoue.

The Applicant has also attacked Inoue ('517) reference individually by reciting that it "discloses win determined by a bonus given if there is first a winning determination...". The Examiner takes the position that Inoue ('517) was cited as a secondary reference teaching that **separate stepper motors drive each reel and a rotator**. See the court decisions above.

5. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocker et al. in view of Mayeroff and Inoue as applied to claim 4 above, and further in view of Gentles et al.

The Applicant has also attacked the Gentles et al. ('660) reference individually by reciting that "like the other references has a bonus game in addition to its main game". The Examiner takes the position that Gentles et al. ('660) was cited as teaching an **extension harness**. See the court decisions above.

Conclusion

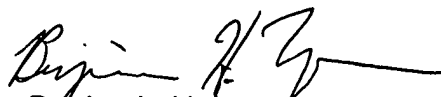
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno

Application/Control Number: 10/611,794
Art Unit: 3712

Page 6

Primary Examiner
Art Unit 3712

bhl